

MINUTES OF THE REGULAR MEETING OF THE PLANNING BOARD OF THE VILLAGE OF IRVINGTON HELD IN THE TRUSTEES' ROOM, VILLAGE HALL, ON WEDNESDAY, MARCH 10, 1999.

Members Present: Patrick J. Gilmartin, Chairman
William Hoffman
Allen Morris, Secretary

Members Absent: Peter Lilienfield
Patrick Natarelli

Also Present: Kevin J. Plunkett, Village Counsel
Brenda Livingston & Joseph Elliott, Ad Hoc Planning Board Members
Ralph Mastromonaco & Tim Miller, Consulting Engineers
Richard Fon, Building Inspector
Florence Costello, Planning Board Clerk
Ceasar Manfredi, ECB Member
J&L Reporting Service, for Westwood Development Associates
Members of the Public.

IPB Matters

Considered:

94-03 -- Westwood Development Associates

Sht.10,P25J2,25K2;Sht.10C,B1.226,Lots 25A,26A,
Sht.11,P-25J

98-12 -- Boran Construction Company

Sht. 5, Bl. 212, Lot 4 & 5

98-44 -- Ciccio & Chernick

Sht. 10C, Bl. 226, Lot 25

99-01 -- Miji Inaba

Sht. 10F, Bl. 253, Lot 1

99-02 -- Hudson House Tenants Corp.

Sht. 9, Bl. 222, Lot 1

99-11 -- Ettore & Maria D'Alessio

Sht. 13, P-141K

99-14 -- Steven & Diane Mundree

Sht. 1, P-20

99-15 -- Jared & Amy Zerman

Sht. 10D, Bl. 240. Lot 4&5

99-16 -- Andrew & Mary Merryman

Sht. 13B, P-47A, 49B

99-17 -- Peter Trinkaus & Martha Morrell

Sht. 7, P-93A,83A2

99-18 -- David Windreich & Christine Hikawa

Sht. 13B, P-17, P-57, P-58

99-19 -- Mar-Vera Corporation

Sht. 13B, P-87

99-20 -- Anthony & Patricia Matero

Sht. 5, Bl. 207, Lot 22

99-21 -- Otto Naumann

Sht. 13A, P-138B

99-22 -- Deborah Flock
Sht. 7B, Bl. 249, Lot 2A

The Chairman called the meeting to order at 8:00 p.m.

Richard Fon, Building Inspector, was welcomed to the Village to fill the vacancy created by the resignation of Eugene Hughey.

With reference to a Local Law adopted by the Village Board prohibiting the Board from considering any application concerning property on which taxes are delinquent, Mrs. Costello advised the Board that the Village Clerk-Treasurer had confirmed that all properties on the agenda were current as to taxes and fees.

IPB Matter #99-11:

Application of Ettore & Maria D'Alessio for Amended Site Development Plan Approval for property at 27 & 29 Hamilton Road.

Norman Sheer, Esq., appeared for the Application, which was carried over from the February 3, 1999 meeting. Mr. Sheer referenced Mr. Mastromonaco's memo dated February 3, 1999 which notes that the proposed construction violates the Village Zoning Code height limitation, and asked the Board to take action permitting him to seek a variance from the Zoning Board of Appeals. The Board thereupon denied the Application subject to reviewing it again after the Zoning Board has made its determination whether or not to grant the variance.

IPB Matter #98-44:

Application of Joseph & Denise Ciccio and Mitchell & Sheri Chernick for subdivision of property at Riverview Road.

Norman Sheer, Esq., appeared for the Application, which was carried over from the February 3, 1999, meeting. Mr. Mastromonaco, by memo dated March 2, 1999, advised the Board that he had reviewed the Site Capacity Determination information submitted by the Applicant and could confirm that the Site Capacity of the Site was two dwelling units. The Board then determined the site capacity of the property to be two dwelling units.

IPB Matter #98-12:

Application of Boran Construction Corp., for Site Development Plan Approval for property at 76 Main Street.

Ken Nadler, Architect, appeared for the Applicant. Mr. Nadler mentioned that the Zoning Board had denied the variances necessary to permit construction in accordance with the site plan the Planning Board had previously indicated it favored, i.e., with the front elevation of the building set at the sidewalk in line with the other buildings on Main Street. The variances granted were for a plan which kept the building set back from the street. Parking problems were among the main reasons for the Zoning Board decision, in that lesser variances were required for the plan approved than for the plan favored by the Planning Board and, according to Mr. Nadler, most of the people who appeared at the Zoning Board hearing.

Mr. Earl Ferguson, a homeowner on Ferris Street, which is on one of the streets abutting the property, then addressed the Planning Board and stated that in his opinion the plan which has the front elevation of building located at the sidewalk on Main Street is a plan far superior to the one for which the Zoning Board had granted variances.

Mr. Nadler stated that the basic problem is that greater off-street parking is required for a new building than is required for the plan which uses the existing building because of grandfathering of parking rights attributable to that existing building. He then asked the Planning Board if the grandfathering could continue if all but small portions of the existing building were demolished and the remaining portions incorporated into the south or rear wall of a new building which had its front elevation at the Main Street sidewalk. After discussion, the Board advised Mr. Nadler that this was a legal question which the Zoning Board would have to determine with the assistance of Village counsel. Mr. Nadler said he would make a new application to the Zoning Board for this type of determination but that it would be helpful if the Planning Board would support it.

The Board then requested the Chairman to write a letter to the Zoning Board indicating that it was in favor of the plan which Mr. Nadler wants to build if the Zoning Board could grant the variance.

IPB Matter #99-19:

**Application of Mar-Vera Corporation for an
Informal Discussion for property at Castle Road.**

Mr. Reynold Gheduzzi appeared for the Applicant. He referred to the subdivision approved by the Planning Board in 1979, which was for a cluster development on property abutting Halsey Pond, which includes 27 private houses and 14 townhouses, the latter to be in 5 units and located closest to Halsey Pond. Mr. Gheduzzi said that instead of building 14 townhouses, he would like to build 9 private houses on the site which the subdivision reserves for the townhouses. He said that before proceeding on this he was trying to find out what the Planning Board's reaction would be to a change, and what the procedures would be to accomplish it, indicating that if the process were to be complicated or time-consuming he would proceed with the townhouse development. The Board advised Mr. Gheduzzi that it would have to review the record between now and the April meeting before it could express a view. To assist in the consideration, however, Mr. Gheduzzi was asked to furnish to the Board overlays showing what the proposed site plan for the 9 private homes would look like compared to the approved plan for the townhouses. He agreed to do so. The matter was carried over to the April meeting.

IPB Matter #99-14:

**Application of Steven & Diane Mundree for
Site Development Plan Approval for property
at 6 West Sunnyside Lane.**

Applicant paid the required application fee and submitted evidence of mailing of required Notice to Affected Property Owners. The proposed addition will follow the footprint of the existing structure (approximately 45'x87') except for two small additions to the first floor level (84 square feet and 168 square feet respectively). The proposed addition will consist of a total of 2200 additional square feet and an additional 28,000 additional cubic feet including all attic space. Applicant submitted "Preliminary drawings for Mundree Addition by Harry N. Pharr/AIA, 4 of 4 sheets, dated February 10, 1999".

The Chairman, with the Board's concurrence, stated that the application would be treated as a Request for Waiver of Site Development Plan Approval and a Type II Action for SEQRA purposes. There were no comments from the public.

After discussion, on motion duly made, seconded and unanimously approved, the Board then adopted the following Resolution:

WHEREAS, the Planning Board has determined in accordance with Section 243-71 of the Village Code that the proposed addition meets conditions which permit Site Development Plan Approval to be waived in that (1) special conditions peculiar to the site exist to make submission of information normally required as part of an application for Site Development Plan Approval inappropriate or unnecessary, including the facts that the proposed construction will not affect any environmental features or resources requiring protection, and will not require major site disturbance or removal of any significant trees, (2) that in these circumstances to require strict compliance with the requirements for Site Development Plan Approval may cause extraordinary or unnecessary hardship, and (3) that the waiver of requirements for Site Development Plan Approval will not have detrimental effects on the public health, safety or general welfare, or have the effect of nullifying the intent and purpose of Site Development Plan submission, the Official Map or Comprehensive Land Use Plan, or Zoning Ordinance of the Village of Irvington, or of any Local Law adopting or amending any of said Map, Plan or Ordinance, **NOW, THEREFORE**, the Planning Board hereby waives all requirements for Site Development Plan Approval for this Application.

IPB Matter #99-15:

Application of Jared & Amy Zerman for Site Development Plan Approval for property at 4 Riverview Terrace.

Applicant paid the required application fee and furnished evidence of mailing of required Notice to Affected Property Owners. The proposed development consists of a 2 ft. x 19 ft. (254 cu. ft.) extension to north side of residence; a 5 ft.6 in. x 17 ft. (935 cu. ft.) extension to rear of residence and an 8 ft.x 18 ft. deck addition to south side of residence which will result in a total increase of 182 sq. ft. Applicant submitted drawings entitled: Site Plan, First Floor Foundation Plan, and Exterior Elevations, prepared by Gerald I. Markel, Architect, dated January 6, 1999.

The Chairman, with the Board's concurrence, stated that the application would be treated as a Request for Waiver of Site Development Plan Approval and a Type II Action for SEQRA purposes. There were no comments from the public.

After discussion, on motion duly made, seconded and unanimously approved, the Board then adopted the following Resolution:

WHEREAS, the Planning Board has determined in accordance with Section 243-71 of the Village Code that the proposed additions meet conditions which permit Site Development Plan Approval to be waived in that (1) special conditions peculiar to the site exist to make submission of information normally required as part of an application for Site Development Plan Approval inappropriate or unnecessary, including the facts that the proposed construction will not affect any environmental features or resources requiring protection, and will not require major site disturbance or removal of any significant trees, (2) that in these circumstances to require strict compliance with the requirements for Site Development Plan Approval may cause extraordinary or unnecessary hardship, and (3) that the waiver of requirements for Site Development Plan Approval will not have detrimental effects on the public health, safety or general welfare, or have the effect of nullifying the intent and purpose of Site Development Plan submission, the Official Map or Comprehensive Land Use Plan, or Zoning Ordinance of the Village of Irvington, or of any Local Law adopting or amending any of said Map, Plan or Ordinance, **NOW, THEREFORE**, the Planning Board hereby waives all requirements for Site Development Plan Approval for this Application.

IPB Matter #99-17:

Application of Peter Trinkaus & Martha Morrell for Site Development Plan Approval for property at 3 El Retiro Lane.

Applicant paid the required application fee and furnished evidence of mailing of required Notice to Affected Property Owners. The proposed development consists of a one-story addition to the existing residence of 312.5 square feet x 9 ft.in height = 2,812.5 cubic feet, all within the required setback regulations. Applicant submitted drawings: Addition to the Residence of Drs. M. J. Morrell & P. M. Trinkaus, prepared by Ferdinand Gottlieb Associates, 6 sheets of various dates.

The Chairman, with the Board's concurrence, stated that the application would be treated as a Request for Waiver of Site Development Plan Approval and a Type II Action for SEQRA purposes. There were no comments from the public, the Board's Consulting Engineer, the Environmental Conservation Board however, noted a large cherry tree at side of residence.

After discussion, on motion duly made, seconded and unanimously approved, the Board then adopted the following Resolution:

WHEREAS, the Planning Board has determined in accordance with Section 243-71 of the Village Code that the proposed addition meets conditions which permit Site Development Plan Approval to be waived in that (1) special conditions peculiar to the site exist to make

submission of information normally required as part of an application for Site Development Plan Approval inappropriate or unnecessary, including the facts that the proposed construction will not affect any environmental features or resources requiring protection, and will not require major site disturbance or removal of any significant trees, (2) that in these circumstances to require strict compliance with the requirements for Site Development Plan Approval may cause extraordinary or unnecessary hardship, and (3) that the waiver of requirements for Site Development Plan Approval will not have detrimental effects on the public health, safety or general welfare, or have the effect of nullifying the intent and purpose of Site Development Plan submission, the Official Map or Comprehensive Land Use Plan, or Zoning Ordinance of the Village of Irvington, or of any Local Law adopting or amending any of said Map, Plan or Ordinance, **NOW, THEREFORE**, the Planning Board hereby waives all requirements for Site Development Plan Approval for this Application.

IPB Matter #99-20:

Application of Anthony & Patricia Montero for Site Development Plan Approval for property at 39 Main Street.

Michael A. Boender, Architect, appeared for the Applicant. Applicant paid the required application fee and furnished evidence of publication and mailing of required Notice to Affected Property Owners. The owner proposes a conversion of the first floor from residential to retail use, and the enclosure of the existing covered porch for show windows, approximately 5'6"D. x 35'L.x 10'H. to the porch ceiling. There will be no increase of footprint. Applicant submitted drawings: River Gallery SK-1 and SK-2, prepared by Michael A. Boender, Architect.

The Chairman pointed out that Section 243-36 E. of the Village Zoning Code requires one on-site parking space for each 150 square feet of retail space, and that Section 243-38 G. makes this requirement applicable to the expanded space even though the existing building may be grandfathered. Because of this, the plan which the Applicant was proposing could not be approved without a variance of the parking requirement by the Zoning Board of Appeals. Accordingly, the Application was denied pending action by the Zoning Board of Appeals.

IPB Matter #99-02:

Agenda Entry Request from Hudson House Tenants Corp., for property at 100 Ardsley Avenue West.

David Barbuti, Architect appeared for the Applicant. This Agenda Entry Request concerns the proposed construction of a 45 car parking area for Hudson House. The Chairman referred to Mr. Mastromonaco's memo dated March 5, 1999, noting the scale of drawings was not correct and it was not possible to understand the width of parking spaces. Mr. Barbuti concurred and promised to re-draw the plans. The discussion was carried over to the April meeting. There was no public comment.

IPB Matter #99-16:

**Application of Andrew & Mary Merryman for
Site Development Plan Approval for property
at 17 Lewis Road.**

Edward A. Berry, Architect, appeared for the Applicant. Applicant paid the required application fee and submitted evidence of mailing of required Notice to Affected Property Owners. The proposed development consists of additions and alterations to an existing single family residence: a second story 62' by 30' containing 15,360 cubic feet, a garage expansion 25' x 5' wide containing 1,000 cubic feet, the existing rear deck is being replaced with a new 20 ft. x 14 ft. deck, and a new deck 9 ft. x 6 ft. is proposed to the south side of the house. The Applicant submitted drawings: Site Plan, Proposed Additions & Alterations to the Residence of Mr. & Mrs. Merryman, dated 2/16/99; Floor Plans, A-1, A-2, A-3, East Elevation A-4, North & South Elevation A-5, and West Elevation A-6, dated February 12, 1999, prepared by Edward A. Berry, Architect.

The Chairman, with the Board's concurrence, stated that the application would be treated as a Request for Waiver of Site Development Plan Approval. There were no comments from the public.

After discussion, and noting Mr. Mastromonaco's memo dated March 5, 1999 stating proposed additions encroach on both sideyards, the Board then adopted the following Resolution:

WHEREAS, the Planning Board has determined in accordance with Section 243-71 of the Village Code that the proposed additions meet conditions which permit Site Development Plan Approval to be waived in that (1) special conditions peculiar to the site exist to make submission of information normally required as part of an application for Site Development Plan Approval inappropriate or unnecessary, including the facts that the proposed construction will not affect any environmental features or resources requiring protection, and will not require major site disturbance or removal of any significant trees, (2) that in these circumstances to require strict compliance with the requirements for Site Development Plan Approval may cause extraordinary or unnecessary hardship; and (3) that the waiver of requirements for Site Development Plan Approval will not have detrimental effects on the public health, safety or general welfare, or have the effect of nullifying the intent and purpose of Site Development Plan submission, the Official Map or Comprehensive Land Use Plan, or depending on the action taken by the Zoning Board of Appeals as hereinafter provided, the Zoning Ordinance of the Village of Irvington, or of any Local Law adopting or amending any of said Map, Plan or Ordinance, **NOW, THEREFORE**, the Planning Board hereby waives all requirements for Site Development Plan Approval for this Application subject to approval by the Zoning Board of Appeals of any variance required in connection with the Application.

IPB Matter #99-22:

**Application of Deborah Flock for Site
Development Plan Approval for property at**

42 West Clinton Avenue.

Christina Griffin, Architect, appeared for the Applicant. Applicant paid the required application fee and furnished evidence of mailing of required Notice to Affected Property Owners. The proposed development consists of a 732 square foot mud room and garage addition, a 272 square foot guest room extension over the existing garage, and a 680 square foot wrap around porch. The new structures will increase the footprint of the house by 1,407 square feet. Applicant submitted drawings: Topographic Survey, prepared for Charles M. and Deborah Flock, dated December 19, 1998 by Anthony A. Sorace, P.L.S., Map entitled, Renovations/Extensions to the Flock Residence, dated February 25, 1999 by Christina Griffin, A.I.A., and set of plans entitled, Flock Residence, dated February 25, 1999 by Christina Griffin, A.I.A. (cover sheet and 3 sheets).

There was no public comment. Considerable discussion involved with two titles on property. Board needs written proof of titles prior to waiver of site development plan approval. A variance is required due to proximity to Old Croton Aqueduct. The Board gave approval for site development plan for driveway, but held over the application to the April 7, 1999 meeting. Mr. Mastromonaco, memo dated March 2, 1999, listed a series of concerns which must be addressed at the next meeting.

IPB Matter #99-21:

Application of Otto Naumann for Waiver of Site Development Plan Approval for property at 49 Havemeyer Road.

Elizabeth Hand-Fry, L.A., appeared for the Applicant. Applicant paid the required application fee and furnished evidence of mailing of required Notice to Affected Property Owners. Applicant proposes the installation of a new inground swimming pool totaling 800 square feet, a new brick and/or bluestone patio totaling approximately 1000 square feet will surround the pool. Landscaping will be added to aid in erosion control and to naturalize the surrounding landscape. Applicant submitted: Map entitled, Topography prepared for Otto Naumann, dated October 23, 1998, by Charles Riley, L.S., and Site Plan prepared for Otto Naumann, last revised February 22, 1999 by Elizabeth Hand-Fry, Landscape Architect.

There were no comments from the public. Discussion followed with the Board noting detail on the pool and particularly pumping equipment is missing, and Mr. Mastromonaco's concerns, memo dated March 5, 1999, must be addressed. The application is carried over to the April 7, 1999 meeting.

IPB Matter #99-18:

Application of David Windreich & Christine Hikawa for Site Development Plan Approval for property at 7 Cyrus Field Road.

Radislav Opacic, Architect, appeared for the Applicant. Applicant paid the required application fee and furnished evidence of publication and mailing of required Notice to Affected Property Owners. The proposed development consists of exterior renovation of the front entry and existing terrace at the front facade, a one-story breakfast room (200 sq. ft) and mudroom/powder room (100 sq. ft.) at rear facade, a one-story library addition (270 sq. ft.) off the existing living room at the rear facade, and a master bedroom at second floor level. Applicant plans entitled: Windreich/Hikawa Residence by Opacic Architects, 13 sheets, dated February 2, 1999.

There were no comments from the public. Environmental Conservation Board's memo dated March 10, 1999 and Ralph Mastromonaco's memo dated March 5, 1999 were addressed. After discussion regarding runoff, and concerns regarding a cedar tree, the Board on motion duly made, seconded and unanimously approved, adopted the following Resolution:

WHEREAS, the Planning Board has determined in accordance with Section 243-71 of the Village Code that the proposed additions and alterations meet conditions which permit Site Development Plan Approval to be waived in that (1) special conditions peculiar to the site exist to make submission of information normally required as part of an application for Site Development Plan Approval inappropriate or unnecessary, including the facts that the proposed construction will not affect any environmental features or resources requiring protection, and will not require major site disturbance or removal of any significant trees, (2) that in these circumstances to require strict compliance with the requirements for Site Development Plan Approval may cause extraordinary or unnecessary hardship, and (3) that the waiver of requirements for Site Development Plan Approval will not have detrimental effects on the public health, safety or general welfare, or have the effect of nullifying the intent and purpose of Site Development Plan submission, the Official Map or Comprehensive Land Use Plan, or Zoning Ordinance of the Village of Irvington, or of any Local Law adopting or amending any of said Map, Plan or Ordinance, **NOW, THEREFORE**, the Planning Board hereby waives all requirements for Site Development Plan approval for this Application.

IPB Matter #99-01:

Application of Miji Inaba for Final Site Development Plan Approval for property at Fieldpoint Drive.

Messrs. Chris Barnett and Chris Hughes appeared for the Application carried over from the February 3, 1999 Planning Board meeting. Again, the Board's engineering consultant (memo dated March 3, 1999) had several concerns. After discussion regarding sewage, excessive grading, and tree clearing, new drawings must be provided. The Application was carried over to the Board's April meeting.

IPB Matter #94-03:

Application of Westwood Development Associates, Inc., for Limited Site Development Plan Approval for property at Broadway,

Riverview Road and Mountain Road.

Messrs. Padraic Steinschneider and Charles Pateman appeared for the Applicant. The Chairman read aloud a letter from Mr. Donald P. Marra, Assistant Superintendent for Business and Facilities Management of the Irvington School District, dated February 22, 1999 requesting that the Planning Board not take final action on this Application until after May 18 when the School Board proposes to have a referendum vote taken on granting a resolution permitting it to negotiate the grant of an easement over school property connecting the applicant's property to Link Road. In response, the Chairman said he did not believe it would be possible for the Board to take any final action before May 18 in any case. Mr. Pateman, for the Applicant, stated that the school board was contemplating in its referendum a sale of the easement to the Applicant and the Applicant had no interest in purchasing such an easement. All it would be willing to do would be to work out some type of exchange of its existing easement over school property for an easement to Link Road.

There was a discussion of the time in which the Board has to approve or disapprove the FEIS which had been submitted. Under SEQRA, the time is 45 days from the close of the public hearing unless more time is necessary. Mr. Pateman, on behalf of the Applicant, stated that the Board would be given as much time as it felt necessary to review and take action on the FEIS.

The Chairman asked Mrs. Katz, who has been monitoring the hearings for the Fieldpoint Association, to request Fieldpoint's attorney, Joel Sachs, Esq., to provide legal authority for the assertions made in his various letters to the Planning Board that the Westwood Development cannot discharge storm water runoff into drainage facilities located on Fieldpoint property.

Other matters were also discussed. A complete stenographic transcript of the proceeding relating to this matter was prepared and is incorporated herein by reference.

IPB Matter #98-20:

Application of Spectrum Irvington Corp., for Site Development Plan Approval for Lot #29, Legend Hollow Subdivision.

Mr. Richard Fon, the Building Inspector, informed the Board that on inspection of the construction on Lot 29 in preparation for granting a Certificate of Occupancy, he had observed that the construction was not in accord with the final approved Site Development Plan. The orientation of the building on the lot had been changed slightly and the location of the garage had been moved.

The Board expressed great concern about this to various representatives of the builder, Spectrum Irvington Corp., who were present. The Spectrum representatives expressed regret and stated that one of the problems they were now faced with was that the sale of the lot and building in question were scheduled to close on Tuesday, March 16.

The Board reviewed the "as built" plan as outlined by Mr. Fon, as did Mr. Mastromonaco. All agreed that the development as built was slightly better than the approved final site plan. There was a consensus to approve the amended site plan in order to not punish the innocent buyer by delaying the closing. Because a public hearing would be necessary for the amendment, there was some uncertainty about whether or not there was a procedure that would permit the necessary formalities to be followed to permit the Board to take action prior to March 16.

After discussion with Mr. Plunkett, the Board adjourned this matter, and this meeting to 7:45 p.m., Monday, March 15 at Village Hall to have a public hearing on the proposed amendment to the final site development plan for Lot 29, provided that between now and then the Applicant, in conjunction with the Village Counsel and Village Code, could agree on procedures which, if followed, would enable the Board to legally take action on the Application after a public hearing at such adjourned meeting.

The Board then considered the following administrative matters:

- Minutes of the Planning Board held on February 3, 1999, previously distributed, were on motion duly made and seconded, approved.
- The next regular meeting of the Planning Board was scheduled for April 7, 1999.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Allen Morris, Secretary

